

REMARKS

Status of Claims:

By way of the instant amendment, claims 13 and 17 had been canceled and claims 18-22 had been added. Thus, claims 1-12, 14-16, and 18-22 remain for examination.

Amendments to the written Description:

The written description has been amended conform the written description to the drawings (Figs. 10 and 11) and to explicitly refer to the already labeled and illustrated speakers and microphone shown in these figures. No new matter has been added.

Rejection Under Sec. 112:

Claims 7 and 16 stand rejected under 35 U.S.C. §112 as being indefinite. These claims have been amended to make clear the recitation of the elastic member connected to the headband at two points. It is thus submitted that all of applicants' claims fully comply with the provisions of 35 U.S.C. §112.

Prior Art Rejection:

Claims 1, 5-9 and 16 stand rejected under 35 U.S.C. §102(b) as being anticipated by Nishiyama (JP09-270729). Claims 2, 3 and 13-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nishiyama (JP09-270729) in view of Parker (US2004/0204207) or Begic (US2003/0157903). Claims 4, 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishiyama (JP09-270729) in view of Boesen (US2002/0198021). Claims 10 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nishiyama (JP09-270729) in view of Hwang (US2002/0090099).

The examiner's rejections are respectfully traversed.

As to the rejected claims, claims 1 and 8 are independent. Claim 1 includes the limitation of "an antenna arranged at a certain position on said

headband, --- the certain position is different from the end of the headband that connects to the speaker". Claim 8 includes the limitation of "an antenna arranged on a substantially central part of said headband".

None of the cited references disclose the above limitations.

As to independent claims 1 and 8, the examiner, citing Nishiyama, identifies an antenna 16 arranged on the headband 22. However, the antenna 16 is arranged on a horn part 21 through antenna supporting part 23, and the arranged position is the end of the headband 22 that is the same as the position of the horn part 21. It may be seen that the position of the antenna is not "arranged at a certain position on the headband" which is "different from the end of the headband connected to the speaker" (claim 1) and further that the antenna is not arranged "on a substantially central part of the headband" (claim 8).

In order for a reference to be utilized as an anticipatory reference under the provisions of 35 U.S.C. §102, the reference must disclose each and every claim limitation. This is certainly not the case here, and thus the Sec. 102 rejection must be withdrawn.

The deficiencies of the primary Nishiyama reference are not cured by the teachings of the secondary references.

As to Parker and Begic, the above argument is also applicable. Though the examiner observed that Parker and Begic evidence that use of a flexible circuit board in communication apparatus is well known in the art, neither of these references disclose an antenna arranged at a certain position on a headband, indeed, these references do not actually disclose a headband at all.

The examiner cites Boesen for a teaching that it is well known in the art to utilize a second antenna in a communication apparatus. Boesen does not supply the missing teachings lacking in Nishiyama since Boesen does not

disclose an antenna arranged at a certain position on a headband, or even a headband at all.

The examiner cites Hwang for a teaching that compact communication modules are well known in the art. Applicants point out however, that Hwang does not disclose an antenna arranged at a certain position on a headband, and does not even disclose a headband at all. In addition, unlike the limitation in claim 10, in Hwang, the wireless communication module including the wireless transceiver circuit 404 is not included in the earpiece 104 but included in the mouthpiece 104.

Applicant's dependent claims are deemed to be patentable at least for the same reasons discussed above with respect to independent claims 1 and 8.

In view of the amendments made hereto and the comments set forth above, it is submitted that the PTO has not made out a *prima facie* case of obviousness with the provisions of 35 U.S.C. §103.

Applicant has added new claim 18-22. Claim 18 is dependent on claim 1, and claim 19 is depending on claim 8. Independent claim 20, in the same fashion as claim 1, includes the limitations of "an antenna arranged at a certain position on said headband, --- the certain position is different from the end of the headband that connects to the speaker". As such claim 20 likewise distinguishes applicants' invention over the prior art and is deemed patentable thereover. As such dependent claims 21 and 22 are likewise deemed patentable.

Conclusions:

In view of the forgoing, it is respectfully submitted that the present application is in condition for allowance and an early indication of allowance is respectfully requested.

The commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17,

or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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